



STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES
AND ENVIRONMENTAL CONTROL

OFFICE OF THE
SECRETARY

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Secretary's Order No.: 2013-A-0042

**RE: Proposed Regulation Repeal of 7 DE Admin. Code 1143:
Heavy Duty Diesel Engine Standard, and correlating Revision
To Delaware's State Implementation Plan (SIP)
(pursuant to E.O. 36 DNREC Regulatory Review)**

Date of Issuance: October 14, 2013

Effective Date of the Amendment: November 11, 2013

Under the authority vested in the Secretary of the Department of Natural Resources and Environmental Control ("Department" or "DNREC") the following findings, reasons and conclusions are entered as an Order of the Secretary in the above-referenced rulemaking proceeding.

Background and Procedural History

This Order considers proposed regulatory action to repeal 7 DE Admin. Code 1143: *Heavy Duty Diesel Engine Standard*, and correlating revision to Delaware's State Implementation Plan ("SIP"), as a result of the Department's exhaustive review of its existing regulations, pursuant to Governor Markell's Executive Order No. 36 (hereinafter referred to as "E.O. 36"). In June of 2012, Governor Markell issued E.O. 36, which directed all state agencies, including DNREC, to perform a focused review of their existing, older regulations, identify and remove regulatory hurdles, and modernize and

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streamline any regulations that may be outdated or unnecessarily burdensome, while maintaining the state's commitment to improving public health and environmental performance.

Among the considerations of the Department's aforementioned focused review of its existing regulations under E.O. 36 was to ensure that the same continued to serve the original purpose for which they were adopted, and to provide for improvements. To that end, the Department's Division of Air Quality ("DAQ") identified 7 DE Admin. Code 1143: *Heavy Duty Diesel Engine Standard* as an existing, older regulation which required repeal at this time.

The Department is proposed to repeal 7 DE Admin. Code 1143: *Heavy Duty Diesel Engine Standard* in its entirety at this time. The provisions of this regulation apply to heavy-duty diesel engines produced for the 2005 and 2006 model years, and to new motor vehicles with a gross vehicle weight rating (GVWR) of greater than 14,000 pounds containing such engines that are sold, leased, offered for sale or lease, imported, delivered, rented acquired, or received in the State of Delaware. This regulation was developed and adopted as a backstop to a then- anticipated U.S. Environmental Protection Agency ("EPA") regulation. EPA successfully adopted standards, and thus this regulation itself is no longer needed. Additionally, once this regulatory action has been taken, the Department will also submit the repeal of 7 DE Admin. Code 1143: *Heavy Duty Diesel Engine Standard* to the EPA as a revision to Delaware's State Implementation Plan ("SIP").

The Department's Division of Air Quality commenced the regulatory development process with Start Action Notice 2013-19 (E.O.36). The Department published its initial proposed regulation repeal action in the July 1, 2013 *Delaware Register of Regulations*, and held a public hearing on August 1, 2013.

These proposed regulatory actions were thoroughly vetted by the Department at the aforementioned public hearing on August 1, 2013. Pursuant to Delaware law, the record remained open for fifteen (15) additional days subsequent to the date of the public hearing, for the purpose of receiving additional public comment. No public comment was received by the Department from the public at any time during the course of this proposed promulgation. It should also be noted that all proper notification and noticing requirements concerning this proposed promulgation were met by the Department. Proper notice of the hearing was provided as required by law.

The Department's presiding hearing officer, Lisa A. Vest, prepared a Hearing Officer's Report dated September 30, 2013 (Report). The Report recommends certain findings and the adoption of the proposed regulatory actions as attached to the Report as Appendix A.

Findings and Discussion

I find that the proposed regulatory actions are well-supported by the record developed by the Department, and I adopt the Report to the extent it is consistent with this Order. The Department's experts developed the record and drafted the proposed regulatory actions. As previously noted, no public comment was received by the Department from the public at any time during the course of this proposed promulgation.

I find that the Department's experts in the Division of Air Quality fully developed the record to support adoption of these regulatory actions. The adoption of this Order will enable Delaware to streamline its existing air regulations by repeal of this older, obsolete regulation, which no longer serves its intended purpose. Moreover, the Department will be able to update EPA with the submission of a correlating SIP revision to note the formal appeal of this obsolete air regulation;

In conclusion, the following findings and conclusions are entered:

1.) The Department has jurisdiction under its statutory authority to issue an Order adopting these proposed regulatory actions as final;

2.) The Department provided adequate public notice of the proposed regulatory actions, and provided the public with an adequate opportunity to comment on the initial proposed actions, including at the public hearing held on August 1, 2013;

3.) The Department held a public hearing on August 1, 2013 in order to consider public comment before making any final decision;

4.) The Department's Hearing Officer's Report, including its recommended record and the recommended regulatory actions as set forth in Appendix A, are adopted to provide additional reasons and findings for this Order;

5.) The adoption of this Order will enable Delaware to streamline its existing air regulations by repeal of this older, obsolete regulation, which no longer serves its intended purpose. Moreover, the Department will be able to update EPA with the submission of a correlating SIP revision to note the formal appeal of this obsolete air regulation;

6.) The recommended regulatory actions should be adopted as final regulatory actions because Delaware will be able to (1) update its existing, older air regulations by removing that which no longer serves its intended purpose, while simultaneously providing additional clarity and understanding to Delaware citizens with regard to these matters; (2) further the purpose of Governor Markell's initiatives as set forth in Executive Order No. 36, to wit: strengthen Delaware's economy by modernizing and streamlining regulations that may be outdated or unnecessarily burdensome, while maintaining the state's commitment to improving public health and environmental performance; and, lastly, because (3) the regulation actions are well supported by documents in the record;

7.) The Department shall submit this Order approving the final regulation to the *Delaware Register of Regulations* for publication in its next available issue, and provide such other notice as the law and regulation require and the Department determines is appropriate.



Collin P. O'Mara
Secretary

HEARING OFFICER'S REPORT

TO: The Honorable Collin P. O'Mara
Cabinet Secretary, Department of Natural Resources and Environmental Control

FROM: Lisa A. Vest 
Public Hearing Officer, Office of the Secretary
Department of Natural Resources and Environmental Control

RE: **Proposed Regulation Repeal of 7 DE Admin. Code 1143:
Heavy Duty Diesel Engine Standards, and correlating Revision to
Delaware's State Implementation Plan (SIP)
(pursuant to E.O. 36 DNREC Regulatory Review)**

DATE: September 30, 2013

I. BACKGROUND AND PROCEDURAL HISTORY:

A public hearing was held on Thursday, August 1, 2013, at 6:00 p.m. at the Department of Natural Resources and Environmental Control ("DNREC", "Department"), 89 Kings Highway, Dover, Delaware to receive comment on the proposed regulation repeal of 7 DE Admin. Code 1143: *Heavy Duty Diesel Engine Standards*, and correlating revision to Delaware's State Implementation Plan ("SIP"). This public hearing was held as a result of the Department's review of its existing regulations, pursuant to Governor Markell's Executive Order No. 36 (hereinafter referred to as "E.O. 36"). In June of 2012, Governor Markell issued E.O. 36, which directed all state agencies, including DNREC, to perform a focused review of their existing, older regulations, identify and remove regulatory hurdles, and modernize and streamline any regulations that may be outdated or unnecessarily burdensome, while maintaining the state's commitment to improving public health and environmental performance.

Among the considerations of the Department's aforementioned focused review of its existing regulations under E.O. 36 was to ensure that the same continued to serve the original purpose for which they were adopted, and to provide for improvements. To that end, the

Department's Division of Air Quality ("DAQ") identified 7 DE Admin. Code 1143: *Heavy Duty Diesel Engine Standards* as an existing, older regulation which required repeal at this time.

The Department is proposed to repeal 7 DE Admin. 1143: *Heavy Duty Diesel Engine Standards* in its entirety at this time. The provisions of this regulation apply to heavy-duty diesel engines produced for the 2005 and 2006 model years, and to new motor vehicles with a gross vehicle weight rating (GVWR) of greater than 14,000 pounds containing such engines that are sold, leased, offered for sale or lease, imported, delivered, rented acquired, or received in the State of Delaware. This regulation was developed and adopted as a backstop to a then-anticipated U.S. Environmental Protection Agency ("EPA") regulation. EPA successfully adopted standards, and thus this regulation itself is no longer needed. Additionally, once this regulatory action has been taken, the Department will also submit the repeal of 7 DE Admin. Code 1143: *Heavy Duty Diesel Engine Standard* to the EPA as a revision to Delaware's State Implementation Plan ("SIP").

The Department has the statutory basis and legal authority to act with regard to the proposed repeal of 7 DE Admin. Code 1143: *Heavy Duty Diesel Engine Standard*, pursuant to 7 *Del. C.*, Chapter 60. The Department's Division of Air Quality commenced the regulatory development process with Start Action Notices 2013-19 (E.O.36). The Department published its initial proposed regulation repeal in the July 1, 2013 *Delaware Register of Regulations*, and held the public hearing on August 1, 2013. It should be noted that no public comment was received by the Department at any time during the course of this promulgation. Proper notice of the hearing was provided as required by law.

II. SUMMARY OF THE PUBLIC HEARING RECORD:

The public hearing record consists of the following documents: (1) a verbatim transcript; and (2) five documents introduced at the public hearing held on August 1, 2013, and marked by this Hearing Officer accordingly as Department Exhibits 1-5. The Department's person primarily responsible for the drafting and overall promulgation of these proposed action, Ron Amirikian, developed the record with the relevant documents in the Department's files.

Following the submission of the Department's exhibits into the record at the hearing held on August 1, 2013, Mr. Amirikian proceeded to offer a brief summary as to the Department's proposed actions for the benefit of the record developed in this matter (see Section I of this Report for said summary). As noted previously, no public comment was received by the Department at any time during the course of this promulgation.

For the Secretary's review, and in order for the Secretary to gain a thorough understanding of this proposed action, copies of the above-referenced proposed repeal are attached hereto as Appendix "A", and the same are expressly incorporated into this Hearing Officer's Report. It should be noted that the Department adhered to all appropriate Delaware statutes and the regulatory development process in this matter, and that the Department has met the required public notice obligations regarding these proposed regulatory action. It should also be noted that the Department has reviewed this proposed promulgation in the light of the Regulatory Flexibility Act, and believes the same to be lawful, feasible and desirable, and that the recommendations as proposed should be applicable to all Delaware citizens equally.

III. RECOMMENDED FINDINGS AND CONCLUSIONS:

Based on the record developed, I find and conclude that the Department has provided appropriate reasoning regarding the need for the proposed repeal of 7 DE Admin. Code 1143:

Heavy Duty Diesel Engine Standard, as noted above. Accordingly, I recommend promulgation of this proposed repeal in the customary manner provided by law.

Further, I recommend the Secretary adopt the following findings and conclusions:

1. Proper notice of the hearing was provided as required by law.
2. The Department has jurisdiction under its statutory authority to make a determination in this proceeding;
3. The Department provided adequate public notice of all proceedings in a manner required by the law and regulations;
4. The Department held its public hearing in a manner required by the law and regulations;
5. Promulgation of the proposed regulatory repeal to 7 DE Admin. Code 1143: *Heavy Duty Diesel Engine Standard*, will enable Delaware to streamline its existing air regulations by repeal of this older, obsolete regulation, which no longer serves its intended purpose. Moreover, the Department will be able to update EPA with the submission of a correlating SIP revision to note the formal appeal of this obsolete air regulation;
6. Additionally, promulgation of this proposed regulatory action by the Department will further the purpose of Governor Markell's initiatives as set forth in Executive Order No. 36, to wit: to strengthen Delaware's economy by modernizing and streamlining regulations that may be outdated or unnecessarily burdensome, while maintaining the state's commitment to improving public health and environmental performance;

7. The Department has reviewed these proposed regulatory actions in the light of the Regulatory Flexibility Act, and believes the same to be lawful, feasible and desirable, and that the recommendations as proposed should be applicable to all Delaware citizens equally;
8. The Department's aforementioned proposed repeal of 7 DE Admin. Code 1143: *Heavy Duty Diesel Engine Standard*, as published in the July 1, 2013 *Delaware Register of Regulations*, as well as the correlating submission to the EPA of a SIP revision documenting this formal repeal, and as set forth in Appendix "A" hereto, are adequately supported, are not arbitrary or capricious, and are consistent with the applicable laws and regulations. Consequently, these actions should be approved as final regulatory actions, which shall go into effect ten days after their publication in the next available issue of the *Delaware Register of Regulations*; and
9. The Department shall submit the proposed regulation actions as final actions to the *Delaware Register of Regulations* for publication in its next available issue, and shall provide such other notice as the law and regulations require, and as the Department determines is appropriate.


LISA A. VEST
Public Hearing Officer

APPENDIX “A”

Repeal of all regulatory language is proposed.

~~Title 7 Natural Resources and Environmental Control~~

~~1100 Air Quality Management Section~~

~~1143 Heavy Duty Diesel Engine Standards~~

~~02/11/2005~~

~~1.0 On Road Heavy Duty Diesel Requirements for Model Years 2005 and 2006~~

~~1.1 Applicability~~

~~The provisions of this regulation apply to heavy duty diesel engines produced for the 2005 and 2006 model years, and to new motor vehicles with a gross vehicle weight rating (GVWR) of greater than 14,000 pounds containing such engines that are sold, leased, offered for sale or lease, imported, delivered, rented acquired, or received in the State of Delaware.~~

~~1.2 Definitions~~

~~The following definitions are applicable to 1.0 of this regulation:~~

~~“Department” means the Delaware Department of Natural Resources and Environmental Control.~~

~~“Division” means the Delaware Division of Motor Vehicles of the Delaware Department of Transportation.~~

~~“Emergency vehicle” means any publicly owned and operated ambulance, lifeguard, or lifesaving equipment or any privately owned or operated vehicle which is responding to an emergency call. Any publicly owned vehicle operated by the following persons, agencies, or organizations:~~

~~(1) Any federal, state, or local agency, department, or district employing peace officers for use by those officers in the performance of their duties.~~

~~(2) Any forestry or fire department of any public agency or fire department.~~

~~(3) Any vehicle owned by the state, or any bridge and highway district, and equipped and used either for fighting fires, or towing or servicing other vehicles, caring for injured persons, or repairing damaged lighting or electrical equipment.~~

~~(4) Any state owned vehicle used in responding to emergency fire, rescue or communications calls and operated either by the Delaware Emergency Management Agency or by any public~~

agency or industrial fire department to which the Delaware Emergency Management Agency has assigned the vehicle.

~~(5) Any vehicle owned or operated by any department or agency of the United States government when the vehicle is used in responding to emergency fire, ambulance, or lifesaving calls or is actively engaged in law enforcement work.~~

~~(6) Any vehicle for which an authorized emergency vehicle permit has been issued by the Superintendent of the Delaware State Police.~~

~~“Executive Order” means a document issued by the California Air Resources Board (CARB) certifying that a specified engine family or model year vehicle has met all applicable Title 13 CCR (California Code of Regulations) requirements for certification and sale in California.~~

~~“Heavy duty diesel engine” means a diesel engine that is used to propel a motor vehicle with a Gross Vehicle Weight Rating of 14,001 pounds or greater.~~

~~“Heavy duty motor vehicle” means a motor vehicle with a Gross Vehicle Weight Rating of 14,001 pounds or greater.~~

~~“Model year” means the manufacturer's annual production period which includes January 1 of a calendar year or, if the manufacturer has no annual production period, the calendar year. In the case of any vehicle manufactured in two or more stages, the time of manufacture shall be the date of completion of the chassis.~~

~~“New motor vehicle” means a motor vehicle, the equitable or legal title to which has never been transferred to an ultimate purchaser.~~

~~“New motor vehicle engine” means a new engine in a motor vehicle.~~

~~“Ultimate purchaser” means, with respect to any new motor vehicle or new motor vehicle engine, the first person who in good faith purchases a new motor vehicle or new motor vehicle engine for purposes other than resale.~~

~~“Ultra small volume manufacturer” means any manufacturer with Delaware sales less than or equal to 300 new passenger cars, light duty trucks, medium-duty vehicles, heavy-duty vehicles, and heavy-duty engines per model year based on the average number of vehicles and engines sold by the manufacturer in the previous three consecutive model years.~~

~~“Urban bus” means a passenger-carrying vehicle powered by a heavy heavy-duty diesel engine, or of a type normally powered by a heavy heavy-duty diesel engine, with a load capacity of 15 or more passengers and intended primarily for intra-city operation, i.e., within the confines of a city or greater metropolitan area. Urban bus operation is characterized by short rides and frequent stops. To facilitate this type of operation, more than one set of quick-operating entrance and exit doors would normally be installed. Since fares are usually paid in cash or token, rather than~~

~~purchased in advance in the form of tickets, urban buses would normally have equipment installed for the collection of fares. Urban buses are also typically characterized by the absence of equipment and facilities for long distance travel, e.g., restrooms, large luggage compartments, and facilities for stowing carry-on luggage.~~

~~1.3 Severability~~

~~Each provision of 1.0 of this regulation shall be deemed severable. If any provision of this regulation is held to be invalid, the remainder shall continue in full force and effect.~~

~~1.4 Reporting Requirements~~

~~All manufacturers of 2005 and 2006 model year heavy-duty diesel vehicles with a GVWR of 14,001 pounds or greater shall provide certification that the engine used in the manufacturer's vehicle comply with the applicable exhaust emissions standards under Title 13, Section 1956.8 of the California Code of Regulations, and shall be consistent with the Executive Order issued by CARB for the appropriate engine family or model year. This certification shall be sent to the Department 30 days prior to the date of the first vehicle being potentially available for sale.~~

~~1.5 Dealer Compliance~~

~~No person who is a resident of this state, or who operates an established place of business within this state, shall sell, lease, rent, import, deliver, lease, purchase, acquire, or receive in the State of Delaware, or offer for sale, lease, or rental in this state (or attempt or assist in any such prohibited action) any of the following types of motor vehicles or engines that are intended primarily for use or for registration in the State of Delaware, unless the manufacturer has certified on the Certificate of Origin that the engine in the vehicle complies with Title 13, Section 1956.8 of the California Code of Regulations last amended on July 25, 2001 or complies with other documentation approved and provided by the Department:~~

~~1.5.1 A 2005 or 2006 model year heavy-duty diesel engine;~~

~~1.5.2 A new motor vehicle equipped with a 2005 or 2006 model year heavy-duty diesel engine;
or~~

~~1.5.3 A motor vehicle with a new 2005 or 2006 model year heavy-duty diesel engine.~~

~~1.6 Exemptions and Technology Review~~

~~Notwithstanding 1.4 of this regulation, the requirements of 1.0 of this regulation shall not apply to:~~

~~1.6.1 A model year 2005 or 2006 heavy-duty diesel engine manufactured by an ultra-small volume manufacturer or intended for use in an urban bus;~~

~~1.6.2 An engine if, following a technology review, the California Air Resources Board determines that it is inappropriate to require compliance for heavy duty diesel engines of that particular model year and engine family;~~

~~1.6.3 A vehicle acquired by a resident of this state for the purpose of replacing a vehicle registered to such resident which was damaged or became inoperative beyond reasonable repair or was stolen while out of this state; provided that such replacement vehicle is acquired out of state at the time the previously owned vehicle was either damaged or became inoperative or was stolen;~~

~~1.6.4 A vehicle transferred by inheritance, or by a decree of divorce, dissolution, or legal separation entered by a court of competent jurisdiction;~~

~~1.6.5 A motor vehicle having a certificate of conformity issued pursuant to the Clean Air Act (42 U.S.C. §7401 et seq.) and originally registered in another state by a resident of that state who subsequently establishes residence in this state and who, upon registration of the vehicle in this state provides satisfactory evidence to the Division of the previous residence and registration;~~

~~1.6.6 An emergency vehicle;~~

~~1.6.7 A military tactical vehicle or equipment; or~~

~~1.6.8 Any other vehicles exempted by the California Health and Safety Code, section 43656 as of March 20, 2001.~~

~~1.7 Manufacturer Compliance with California Orders and Voluntary Recalls~~

~~1.7.1 Any order or enforcement action taken by the California Air Resources Board to correct noncompliance with any heavy duty diesel engine requirements adopted by such Board on December 8, 2000 shall be applicable to all such engines and motor vehicles subject to this regulation, sold, leased, or rented, offered for sale, lease, or rental, or registered in Delaware, except where the manufacturer demonstrates to the Department's satisfaction, within 21 days of issuance of such CARB action, that this action is not applicable to such engines or vehicles in Delaware.~~

~~1.7.2 Any voluntary or influenced emission-related recall campaign initiated by any manufacturer pursuant to Title 13, sections 2113 through 2121 of the California Code of Regulations shall extend to all applicable engines and motor vehicles subject to this regulation, sold, leased, or rented, offered for sale, lease, or rental, or registered in Delaware, except where the manufacturer demonstrates to the Department's satisfaction, within 21 days of approval of the campaign by the CARB, that this campaign is not applicable to such engines or vehicles in Delaware.~~

~~1.8 Adoption and Incorporation by Reference of California Rules~~

~~The Department hereby adopts and incorporates by reference the exhaust emission standards (and associated performance test procedures) for model year 2005 and 2006 heavy-duty diesel engines adopted by the California Air Resources Board on December 8, 2000, and any future amendments to these provisions that the CARB may promulgate. These standards are found in section 1956.8 of Title 13 of the California Code of Regulations, which incorporates by reference the test procedures for determining compliance with the standards.~~

~~1.9 Requirements for Vehicle Registration and Transactions~~

~~1.9.1 No new motor vehicle equipped with a 2005 or 2006 model year heavy-duty diesel engine may be registered with the Division unless the applicant provides a copy of the Certificate of Origin which complies with 1.5 of this regulation or the Department provides notification to the Division that all vehicles from a specific manufacturer are in compliance with 1.5 of this regulation or other documentation approved by the Department.~~

~~1.9.2 No person who is a resident of this state, or who operates an established place of business within this state, shall sell, lease, rent, import, deliver, lease, purchase, acquire, or receive in this state, or offer for sale, lease, or rental in this state (or attempt or assist in any such prohibited action) any of the following types of motor vehicles or engines that are intended primarily for use or for registration in this state, unless the manufacturer of the engine has received such a Certificate of Origin which complies with the standards adopted in 1.4 of this regulation or the manufacturer provides other Department approved documents certifying compliance with Title 13, Section 1956.8 of the California Code of Regulations, last amended July 25, 2001:~~

~~1.9.2.1 A 2005 or 2006 model year heavy-duty diesel engine;~~

~~1.9.2.2 A new motor vehicle equipped with a 2005 or 2006 model year heavy-duty diesel engine;
or~~

~~1.9.2.3 A motor vehicle with a new 2005 or 2006 model year heavy-duty diesel engine.~~

~~1.10 Exemptions and Technology Review~~

~~Notwithstanding 1.8 of this regulation, the requirements of 1.0 of this regulation shall not apply to:~~

~~1.10.1 A model year 2005 or 2006 heavy-duty diesel engine manufactured by an ultra-small volume manufacturer or intended for use in an urban bus;~~

~~1.10.2 An engine if, following a technology review, the CARB determines, and is subsequently approved by the Department, that it is inappropriate to require compliance for heavy-duty diesel engines of that particular model year and engine family;~~

~~1.10.3 A vehicle acquired by a resident of this state for the purpose of replacing a vehicle registered to such resident which was damaged or became inoperative beyond reasonable repair~~

~~or was stolen while out of this state; provided that such replacement vehicle is acquired out of state at the time the previously owned vehicle was either damaged or became inoperative or was stolen;~~

~~1.10.4 A vehicle transferred by inheritance, or by a decree of divorce, dissolution, or legal separation entered by a court of competent jurisdiction;~~

~~1.10.5 A motor vehicle having a certificate of conformity issued pursuant to the Clean Air Act (42 U.S.C. §7401 et seq.) and originally registered in another state by a resident of that state who subsequently establishes residence in this state and who, upon registration of the vehicle in this state provides satisfactory evidence to the Division of the previous residence and registration;~~

~~1.10.6 An emergency vehicle;~~

~~1.10.7 A military tactical vehicle or equipment; or~~

~~1.10.8 Any other vehicles exempted by the California Health and Safety Code, section 43656 as of March 20, 2001.~~

~~1.11 Manufacturer Compliance with California Orders and Voluntary Recalls~~

~~1.11.1 Any order or enforcement action taken by the CARB to correct noncompliance with any heavy-duty diesel engine requirements adopted by such Board on December 8, 2000 shall be applicable to all such engines and motor vehicles subject to this regulation, sold, leased, or rented, offered for sale, lease, or rental, or registered in State of Delaware, except where the manufacturer demonstrates to the Department's satisfaction, within 21 days of issuance of such CARB action, that this action is not applicable to such engines or vehicles in Delaware.~~

~~1.11.2 Any voluntary or influenced emission-related recall campaign initiated by any manufacturer pursuant to Title 13, sections 2113 through 2121 of the California Code of Regulations shall extend to all applicable engines and motor vehicles subject to this regulation:~~

~~1.11.2.1 Sold, leased, or rented;~~

~~1.11.2.2 Offered for sale, lease, or rental; or~~

~~1.11.2.3 Registered in Delaware, except where the manufacturer demonstrates to the Department's satisfaction, within 21 days of approval of the campaign by the CARB, that this campaign is not applicable to such engines or vehicles in Delaware.~~

2.0 On Road Heavy Duty Diesel Requirements for Model Year 2007 and Later

2.1 Applicability

~~Except as specifically provided in 2.2 of this regulation, 2.0 of this regulation applies to all heavy-duty diesel vehicles sold, leased or registered for use in Delaware where;~~

~~2.1.1 Such vehicle is equipped with a 2007 Model Year or later diesel engine, and~~

~~2.1.2 The engine family for the installed engine was first certified by CARB at least two years after the effective date of 2.0 of this regulation.~~

2.2 Exemptions

~~Notwithstanding 2.1 of this regulation, the requirements set forth in 2.0 of this regulation do not apply to:~~

~~2.2.1 A heavy-duty diesel engine intended for use in an urban bus;~~

~~2.2.2 A heavy-duty diesel engine of a model year and engine family for which CARB has determined, based upon its technology review, that compliance with its heavy-duty diesel engine standards is not required;~~

~~2.2.3 A vehicle acquired outside of Delaware by a resident of Delaware for the purpose of replacing a vehicle registered to the resident which, while out of Delaware, was stolen, or was damaged, or became inoperative, beyond reasonable repair; provided that such replacement vehicle is acquired within a reasonable amount of time following the time the previously owned vehicle was either stolen, damaged, or became inoperative;~~

~~2.2.4 A vehicle transferred by inheritance, or by a decree of divorce, dissolution, or legal separation entered by a court of competent jurisdiction;~~

~~2.2.5 An emergency vehicle; or~~

~~2.2.6 A military tactical vehicle or equipment.~~

2.3 Definitions

~~For the purpose of 2.0 of this regulation, the following definitions apply:~~

~~“CARB” means the California Air Resources Board, as set out in section 39003, California Health and Safety Code (1999).~~

~~“The terms certification; diesel cycle; emergency vehicle; engine family; heavy-duty vehicle; heavy-duty diesel engine; medium-duty vehicle; military tactical vehicles and equipment; model~~

~~year; urban bus; and ultimate purchaser” each shall have the meaning set out in Title 13, California Code of Regulations (“CCR”) and section 165 of the California Vehicle Code.~~

~~“Division” means The Delaware Division of Motor Vehicles of the Delaware Department of Transportation.~~

~~“Emergency vehicle” means any publicly owned and operated ambulance, lifeguard, or lifesaving equipment or any privately owned or operated vehicle which is responding to an emergency call. Any publicly owned vehicle operated by the following persons, agencies, or organizations:~~

~~(1) Any federal, state, or local agency, department, or district employing peace officers for use by those officers in the performance of their duties.~~

~~(2) Any forestry or fire department of any public agency or fire department~~

~~(3) Any vehicle owned by the state, or any bridge and highway district, and equipped and used either for fighting fires, or towing or servicing other vehicles, caring for injured persons, or repairing damaged lighting or electrical equipment.~~

~~(4) Any state-owned vehicle used in responding to emergency fire, rescue or communications calls and operated either by the Delaware Emergency Management Agency or by any public agency or industrial fire department to which the Delaware Emergency Management Agency has assigned the vehicle.~~

~~(5) Any vehicle owned or operated by any department or agency of the United States government when the vehicle is used in responding to emergency fire, ambulance, or lifesaving calls or is actively engaged in law enforcement work.~~

~~(6) Any vehicle for which an authorized emergency vehicle permit has been issued by the Superintendent of the Delaware State Police.~~

~~“Heavy duty diesel engine” means a diesel engine that is used to propel a motor vehicle with a Gross Vehicle Weight Rating (GVWR) of 14,001 pounds or greater.~~

~~“Heavy duty motor vehicle” means a motor vehicle with a Gross Vehicle Weight Rating of 14,001 pounds or greater~~

~~“Lease” means any commercial transaction recognized under the laws of this State as a means of creating a right to use a good and includes renting. It also includes offering to rent or lease.~~

~~“Model year” means the manufacturer's annual production period which includes January 1 of a calendar year or, if the manufacturer has no annual production period, the calendar year. In the~~

~~case of any vehicle manufactured in two or more stages, the time of manufacture shall be the date of completion of the chassis.~~

~~“Sell” means any commercial transaction recognized under the laws of this State as a means of transferring ownership of a good and includes barter. It also includes offering for sale.~~

~~“Urban bus” means a passenger-carrying vehicle powered by a heavy heavy-duty diesel engine, or of a type normally powered by a heavy heavy-duty diesel engine, with a load capacity of 15 or more passengers and intended primarily for intra-city operation, i.e., within the confines of a city or greater metropolitan area. Urban bus operation is characterized by short rides and frequent stops. To facilitate this type of operation, more than one set of quick-operating entrance and exit doors would normally be installed. Since fares are usually paid in cash or token, rather than purchased in advance in the form of tickets, urban buses would normally have equipment installed for the collection of fares. Urban buses are also typically characterized by the absence of equipment and facilities for long distance travel, e.g., restrooms, large luggage compartments, and facilities for stowing carry-on luggage.~~

~~2.4 Prohibition Against Sale or Registration of Non-complying Vehicles~~

~~No person shall sell, lease or register a heavy-duty vehicle for use in Delaware if:~~

~~2.4.1 Such vehicle is equipped with a 2007 Model Year or later diesel engine, and~~

~~2.4.2 The engine family for the installed engine was first certified by CARB at least two years after the effective date of 2.0 of this regulation, unless the heavy-duty engine installed in such vehicle has been certified by CARB as meeting all requirements of Title 13, CCR, section 1956.8, and the test procedures incorporated by reference therein that apply to Model Year 2007 and subsequent engines.~~

~~2.5 Recall of Vehicles~~

~~If, for any reason, the manufacturer of any vehicle or engine subject to 2.0 of this regulation conducts a recall, whether required or voluntary, or a service campaign in any other state that involves any emissions-related component or element of design that is incorporated in vehicles sold, leased or registered in Delaware, such manufacturer shall notify the Division no later than five days after initiating such recall or service campaign and, unless the Division determines that the recall or service campaign is unwarranted given the facts of the matter, shall conduct such recall or service campaign on vehicles registered in Delaware in accordance with a schedule determined by the Division.~~

~~2.6 Prohibition Against Sale or Registration of Recalled Vehicles~~

~~No person shall sell, lease or register a heavy-duty vehicle subject to the requirements of 2.0 of this regulation if such vehicle has been the subject of an emissions-related recall, unless the vehicle has been corrected in accordance with a recall plan pursuant to 2.0 of this regulation.~~

~~2.7 Prohibition Against Stockpiling~~

~~The purchase of engines or vehicles in excess of normal business needs for the purpose of evading the requirements of 2.0 of this regulation shall be unlawful. No heavy-duty vehicle that is manufactured after January 1, 2007, may be sold, leased or registered in Delaware unless it contains an engine certified by CARB as meeting all requirements of Title 13, CCR, section 1956.8 that apply to Model Year 2007 and subsequent engines.~~